

Message Text

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ACTION EA-06

INFO OCT-01 EUR-08 ISO-00 SS-14 ORM-01 SR-02 L-01 PRS-01

VO-01 SCA-01 NSC-05 NSCE-00 INR-05 SY-02 DODE-00

CIAE-00 SAM-01 /049 W
----- 049009

R 060334Z FEB 75
FM AMCONSUL HONG KONG
TO SECSTATE WASHDC 3742
INFO AMEMBASSY LONDON
USLO PEKING
AMEMBASSY TAIPEI

S E C R E T SECTION 1 OF 2 HONG KONG 1365

NOFORN

LIMDIS

E.O. 11652: XGDS-2
TAGS: SREF CH HK US
SUBJ: ILLEGAL IMMIGRANTS AND APPEALS FOR U.S. POLITICAL
ASYLUM

REF: A. STATE 009266; B. HONG KONG 0406

SUMMARY. ON JANUARY 29 WE DISCUSSED PROBLEMS POSED BY ILLEGAL IMMIGRANTS WHO MIGHT ASK CONSULATE GENERAL FOR ASYLUM (REF B) WITH HONG KONG GOVERNMENT (HKG) POLAD ALAN DONALD MEETING RESULTED IN ESTABLISHING A METHOD OF AVOIDING THESE PROBLEMS. DONALD ACKNOWLEDGED THE POTENTIAL FOR EMBARRASSMENT FOR BOTH HKG AND CONGEN AND NOTED EXTREME IMPORTANCE OF AVOIDING PUBLIC ATTENTION THIS SUBJECT. END SUMMARY.

1. DONALD REVIEWED THE CURRENT SITUATION ON ILLEGALS AND SAID THAT HKG WAS RIGIDLY IMPLEMENTING FORCIBLE REPATRIATION OF THOSE CAUGHT ATTEMPTING ENTRY. SINCE POLICY WAS IMPLEMENTED ON 1 DECEMBER 1974, 314 ILLEGALS HAD BEEN RETURNED TO PRC. OF

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ONLY TEN PERMITTED TO STAY, SIX WERE ORIGINALLY HONG KONG

RESIDENTS AND TWO WERE GIVEN EXEMPTION ON HEALTH GROUNDS. RECENTLY, GROUNDS FOR EXEMPTION HAD BEEN NARROWED FURTHER AND EVEN PARENTAL TIES WERE NOW NO LONGER ACCEPTABLE BASIS FOR EXEMPTION. HONG KONG COURTS ON JANUARY 29 UPHELD AUTHORITY OF HONG KONG IMMIGRATION DEPARTMENT BY DENYING HABEAS CORUPUS WRIT PETITION OF HONG KONG MOTHER ON BEHALF OF "FREEDOM SWIMMER" DAUGHTER. (LEGAL THEORY IS THAT IMMIGRATION DEPARTMENT IS NOT "REPATRIATING" BUT MERELY DENYING "PERMISSON TO LAND" , THUS ILLEGAL WAS REGARDED BY COURT AS NOT HAVING ACUTALLY ENTERED HONG KONG).

2. DONALD ADDERTED THAT IN ORDER TO MAKE POLICY VIALBE AND TO DEMONSTRATE HKG SERIOUSNESS TO PRC, STRICT APPLICATION WAS REQUIRED. THIS MEAND THATKG COULD NOT AND WOULD NOT DISCLOSE IN ANY PUBLIC WAY WHAT CONSTITUTED GROUNDS FOR EXEMPTION FROM REPATRIATION LEAST WELL ORGANZAED REFUGEES FABRICATE CLAIMS ACCORDINGLY. HOWEVER, HKG WAS ADHERING TO PRINCIPLE THAT EACH CASE WOULD BE JUDGED ON ITS OWN MERITS AND DONALD THOUGHT THAT IN PRACTICE THERE WERE PROBABLY SOME ILLEGALS WHO HAD GOT THROUGH BOTH PRC AND HKG BORDER PATROLS ALL THE WAY INTO POPULATED HONG KONG AREAS. THESE WOULD UNDOUBTEDLY LIE LOW WITH HELP OF FRIENDS OR RELATIVES AND MIGHT MAINTAIN THIS STATUS FOR MONTHS OR EVEN YEARS BEFORE SURFACING. DONALD FELT THAT IN LIGHT OF THESE REFUGEE PRACTICES, AND TWO STOWAWAY CASES NOTWITHSTANDING, IT WOULD BE HIGHLY UNLIKELY THAT SUCH PERSON WOULD APPROACH A THIRD COUNTRY ESTABLISHMENT I.E U.S. CONSULATE GENERAL FOR ASYLUM. HE ADDED THAT IN ANY CASE PRC REPRESENTATIVES HAD TOLD HIM DIRECTLY THAT ILLEGALS REPATRIATED TO CHINA WERE NOT SENT TO LABOR CAMPS NOR EVEN PHYSICALLY ABUSED BUT WERE ONLY SENT BACK TO COMMUNES FOR "REEDUCATION".

3. WE STRESSED THAT ALTHOUGH CONTINGENCY WAS POSSIBLY REMOTE, IN VIEW OF STOWAWAYS PRECEDENT AND UNCERTAINTIES THAT CONGRONT ILLEGALS THERE WAS NEED TO DEVISE ARRANGMENTS WHCH WOULD LESSEN RISK OF MBASRRASSING INCIDENT. WE IN HONG KONG MIGHT AGREE THAT PRC TREATMENT OF REPATRIATED ILLEGALS WAS LENIENT BUT THIS VIEW WOULD NO BE ACCEPTABLE IN U.S., PARTICULARLY IF WIDE PUBLICITY WERE INVOLVED. WE NOTED THAT KEY FACTOR FOR USG IN HANDLING ASYLUM REQUESTS WAS "WELL FOUNDED FEAR OF PERSECUTION" WHICH WOULD AUTOMATICALLY BE ASSUMED TO EXIST FOR ANYONE

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PUBLICLY ASKING FOR POLITICAL ASYLUM AT THE CONGEN. THEREFORE, WE WOULD HAVE BE ASSURED THAT AN ILLEGAL ASKING CNGEN FOR ASYLUM WOULD NO BE IN JEOPARDY IF WE BROUGHT HIM TO THE ATTENTION OF HKG.

4. DONALD REPLIED BY EMPHASIZING THAT HKG'S POLICY OF HANDLING EACH CASE INDIVIDUALLY ALLOWED IT TO HAVE ENOUGH FLEXIBILTIY

SO THAT IT WOULD BE POSSIBLE, ALTHOUGH OF COURSE HE COULD GIVE NO COMMITMENT IN ADVANCE, THAT ANY PERSON CONGEN INFORMED THEM ABOUT WOULD BE ALLOWED TO STAY. HE POINTED OUT THAT ANYONE WHO HAD PHYSICALL MADE IT INTO HONG KONG AS FAR AS CONSULATE GENERAL WOULD NOT ACTUALLY BE IN DANGER OF REPATRIATION UNDER PRESENT GROUND RULES AND THAT WE COULD CONTINUE PRIVATELY ADVISING QUESTIONER, AS WE HAD DONE BEFORE DECEMBER 1, THAT SUCH WAS THE CASE AND HE SHOULD APPLY FOR INS CONDITIONAL ENTRY PROGRAM.

5. HOWEVER, DONALD DID AGREE THAT IF A NEWLY ARRIVED ILLEGAL WAS INTENT UPON FORMALLY REQUESTING ASYLUM FROM CONGEN HE WOULD BE IN DIFFERENT CATEGORY AND SHOULD BE TREATED DIFFERENTLY. SUCH A PERSON WOULD LIKELY BE CONCERNED ABOUT FORCIBLE REPATRIATION AND BE ACCCOMPANIED BY RELATIVES OR FRIENDS NOT ADVERSE TO PUBLICITY. WE DICIDED THAT UNDER THOSE CIRCUMTANCES POLAD WOULD BE PROMPTLY NOTIFIED BY CONGEN AS SOON AS REQUEST FOR ASYLUM WAS MADE. PLAD IN TURN WOULD DECIDE HOW TO HANDLE CASE IN CONSULTATION WITH US ANDPROBABLY , DEPNNDING UPON CIRCUMSTANCES, ARRANGE FOR HKG IMMIGRATION OFFICIALS TO PRCESS HIS CAE IN SUCH A WAY THAT HE WOULD BE PERMITTED TO SAY. IT WOULD BE UP TO HKG TO INFORM SUBJECT OF CONDITIONS FOR STAYING AND EVISE APPRIATE RATIONALE TO AVOID BOTH SETTING PRECEDENTS AND CREATING PUBLICITY. DONALD STATED THAT THIS ARRANGEMENT PROVIDED REASONABLE ASSURANCES THAT ILLEGAL REQUESTING ASYLUM WOULD RECEIVE SPECIAL CNSIDERATION BY HKG. HE STIPULATED THAT THIS ARRANGEMENT MUST BE CLOSELY HEDL AND WAS PARTICULARLY CONCERNED THAT NO HINT OF IT REACH PRC EARS.

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CIAE-00 SAM-01 /049 W
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R 060334Z FEB 75
FM AMCONSUL HONG KONG
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LIMDIS

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6. WE ALSO RAISED WITH DONALD MATTER OF SOME 6,000 PERSONS IN CHINA WHO ARE SUBJECT OF APPROVED INS IMMIGRATION PETITIONS FILED IN THEIR BEHALF BY RELATIVES IN THE U.S. WE ASKED THAT IF ANY OF THSE WERE APPREHENDED AS ILLEGALS THEY COULD ALSO BE GIVEN SPECIAL CONSIDERATION IN ORDER THAT WE COULD PROCEED WITH PROCESSING IN HONG KONG FOR IMMIGRATION TO THE UNNITED STATES. WE NOTED THAT SUCH PERSONAL WOULD NOT BE FURDEN ON HONG KONG SINCE THEY WOULD IN EFFECT BE PASSING THROUGH AND THERE WERE REFUGEES RELIEF AND OTHER ORAGANIZATIONS DESIGNED TO TAKE CARE OF THEM. DONALD AGREED TO PROVIDE BORDER PATROLS AND HONG KONG IMMIGRATION AUTHORIEIS REPSONSIBLE FOR INITIAL SCREENING WITH SOME QUESTIONS WHICH COULD ESTABLISH WHETHER A PERSON HAD CLAIM TO SOME RELATIVE OR PETITION CONNECTION IN THE U.S. CASE WOULD THEN BE DEFERRED PENDING CONFIRMATION OF THE CLAIM BY CONGEN. AGAIN WITHOUT MAKING COMMITMENT, DONALD IMPLIED THAT CONFIEMD CASES WOULD BE ALLOWED TO REMAIN IN HONG KONG.

7. COMMENT. IN VIEW OF STRICTNESS OF HKG POLICY, WE THINK THESE CONTINGENCY ARRANGEMENTS ABOUT THE BEST THAT CAN BE
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EIVED UDER PRESENT CIRCUMSTANCES. DONALD OBVIOUSLY COULD NOT GIVE ANY GUARTEE THAT ILLEGALS SEEKING ASYLUM AT CONGEN OR WITH PETITIONING RELATIVES IN THE STATES WOULD IN EVERY CASE BE ALLOWED TO REAMIN IN THE COLONY. PROBABLY A FACTOR INHIBITING HIM IN GIVING COMMITMENT IS FEAR OF A LEAK WHICH WOULD ADVERSELY AFFECT PRC COOPERATION IN REDUCING IMMIGRATION INFUX INTO HONG KONG. HOWEVER, TENOR OF DONALD'S REMARKS AND CONGEN LONG-STANDING EFFICIENT AND COOPERATIVE RELATIONSHIP WITH HKG WOULD INDICATE THAT, WHILE IT WOULD BE NEARLY IMPOSSIBLE TO COVER EVERY EVENTUALITY, ARRANGEMENTS WE HAVE WORKED OUT SHOULD ENABLE US TO AVERT PROBLEMS DESCRIBED IN REF B.

8. IN OUR DISCUSSION IT WAS AGREED THAT DEFECTOR PROGRAM ARRANGMENTS, AS DISTINCT FROM ASYLUM PROCESSING, WERE WELL ESTABLISHED AND NEEDED NO CHANGES.
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Message Attributes

Automatic Decaptoning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLITICAL ASYLUM, REFUGEES, INVESTIGATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 06 FEB 1975
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: KelleyW0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975HONGK01365
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: X2
Errors: N/A
Film Number: D750043-0742
From: HONG KONG
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750267/aaaacigy.tel
Line Count: 220
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EA
Original Classification: SECRET
Original Handling Restrictions: LIMDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: SECRET
Previous Handling Restrictions: LIMDIS
Reference: 75 STATE 009266, 75 HONG KONG 0406
Review Action: RELEASED, APPROVED
Review Authority: KelleyW0
Review Comment: n/a
Review Content Flags:
Review Date: 26 JUN 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <26 JUN 2003 by ShawDG>; APPROVED <10 NOV 2003 by KelleyW0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: ILLEGAL IMMIGRANTS AND APPEALS FOR U.S. POLITICAL ASYLUM
TAGS: SREF, CH, HK, US
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006